

## **II. SUMMARY OF APPLICANT'S RESPONSE:**

As suggested by Examiner, Applicant has amended Claim 4 to place such in independent form and include the limitations set out in Claims 1 and 3 on which Claim 4 was previously dependent.

Next, Claims 5 was amended to be dependent on Claim 4. Claim 6 remains dependent on Claim 5, Claims 7, 8, and 9 remain dependent on Claim 6, and Claim 10 remains dependent on Claim 7.

Allowed independent Claim 11 was amended to correct a topographical error.

Then, Applicant cancelled allowed independent Claim 12.

Finally, Applicant added new independent Claim 13 and Claim 14, dependent on new Claim 13.

In summary, amended Claims 4 and 5, and new Claims 13 and 14 remain for Examiner's further consideration.

As discussed in Section IV below, new Claims 13 and 14 are believed to include recitations of structure that clearly distinguish Applicant's gripper structure over reference structure. These references are discussed below in Section III. Reference numbers used in these references are set out in brackets.

As required by 37 CFR 1.121(c) the text of each pending claims is set out below (Pages 9-14) and attached to the LISTING of CLAIMS (pages 8).

### **III. EXAMINER CITED REFERENCES:**

Reference C (Wang)

U.S. Patent No. 5,964,130

Examiner's primary reference discloses a pair of locking pliers that includes an inverted, shallow V-like shaped fixed upper jaw member [111]. An inner end of this upper jaw member [111] is located between and joined to spaced apart sidewalls of a first or upper handle [11]. The upper jaw member [111] is formed with inward facing, serrated engaging surfaces [1111, 1112]. A lower jaw member [211] of the pliers has an L-like shape and includes a base portion [21] that is pivotally carried between spaced part sidewalls of a second or lower handle [14]. The pliers further include a function or engaging member [31]. This engaging member [31] has spaced apart sidewalls defining a slot [314] for disposition and pivotal attachment to the outer end of the lower jaw member [211]. An inner end of this engaging member [31] is forced away from the jaw member [211] by a coil spring [315]. One end of this spring [315] is carried in a recess [2112] in the outer end of the lower jaw base portion [211] while an opposite end of the spring [315] is located in a recess [313] in a top wall of the engaging member slot [314].

Reference B (Robie et al.)

U.S. Patent No. 6,159,217

This second Examiner cited reference sets out a clamping device [100] particularly adapted for use in knee replacement. This clamp [100] has a pliers-like body comprising pivotally joined upper and lower arms [10, 25]. A lower fixed curved proximal end [20] of the upper arm [10] is formed with upward facing teeth [31]. An upper proximal end 30 of the lower arm [25] includes an upward extending fixed component [30b]. This fixed component [30b] has spaced

apart prongs [30c, 30d] defining a channel [30e] having a V-like shaped lower end. Pivotaly secured between upper ends of the prongs [30c, 30d] is arcuate-shaped movable component [30a] formed with outward facing teeth [31]. Clockwise rotational movement of the component [30a] is limited by the size and shape of the channel [30e]. As seen in FIG. 11, the movable component [30a] of the clamping device [100] may rotate so that its teeth [31] seat flush against the distal end of a femur bone to which a replacement knee is to be attached.

#### **IV. PATENTABILITY:**

##### **CLAIM 13:**

New Claim 13 particularly points and distinctly claims Applicant's inventive upper jaw structure as noted in the recitation below. Application reference numbers have been added for clarity.

"Claim 13 "A gripper 10 . . . comprising:

a first member 14 having an outer handle portion 22 joined to an upper jaw portion 24, said upper jaw portion 24 defined by spaced apart, L-like shaped sidewalls 34, said sidewalls 34 including upper leg segments 38 having abrasive bottom edges 50 and being connected by a top wall 46 to form a space 40, . . ."

This inventive structure defining the gripper upper jaw 24 produces improved results. First, this inventive structure insures minimal damage to a fish's lower jaw teeth as the fish is being held by the gripper 10 during dehooking. No sports fisherman is interested in keeping undersized fish. Many sport fishermen catch and release all fish they catch regardless of size. The only contact between Applicant's gripper upper jaw portion 24 and the fish's lower jaw teeth is with the spaced apart abrasive bottom edges 50 of the sidewall upper leg segments 38. The space 40 between these sidewall upper leg segments 38 accommodates the fish's teeth located

between the gripper upper jaw sidewalls 34. A second improved result is that these spaced apart sidewalls 34 inhibit fish head movement as the fish is being held. A twisting fish can injure its jaw. Upon release, the fish is substantially uninjured so that it may continue to feed and grow.

The jaw structure of neither reference is like nor functions like Applicant's upper jaw structure nor does the reference structure produce like results. Note, the Wang upper jaw member [111] is a wide, solid piece. Likewise, Robie's movable component [30c] is a solid piece. While the Robie solid piece movable component [30a] is somewhat thinner, the area of contact is still sufficient to produce serious damage to the fish's teeth. At the same time the Robie movable component [30a] is not wide enough to inhibit fish head movement. The structure taught by these references could produce substantial injurious results, exactly opposite that produced by Applicant's upper jaw structure. This opposite injurious result is not unexpected since neither reference device is adapted to handle fish. The object of Wang's pliers is to provide gripping of tubular and polygonal objects, for example. The object of the Robie clamp is for use in preparation to cutting of the distal end of the femur bone during total knee replacement surgery.

#### CLAIM 14:

New Claim 14, dependent on new Claim 13, adds more detail to the claim of invention. Claim 14 sets out the distinguishing structure of Applicant's lower jaw portion 18 of the gripper second member 16 and structure of the swivel member 20. In particular, the lower jaw portion 18 is noted as having spaced first and second parts 72, 84 connected by an offset 80 that positions the second part 84 below the first part 72. This offset 80 then is formed with an opening 82 for loose disposition of a pivot pin 134 to form a loose pivot connection 136 between lower jaw

portion 18 and the swivel element 20.

Claim 14 then notes that the swivel element 20 has a top wall 104 having a bottom surface 118 defined by spaced outer and inner parts 124, 126 that are connected by an offset 120. This offset 120 is prepared to seat against the lower jaw portion offset 80. Also, the inner end 106 of the swivel element top wall 104 is formed with a space 110.

Applicant's structure, as described, insures that the offsets 80, 120 interlock when the weight of an engaged fish pulls the swivel element 20 down. As interlocked, there is minimal stress in the pivot pin 134. Additionally, the space 110 in the swivel element top wall 104 and lower location of the lower jaw portion second part 84 allow increased rotation of the swivel element 20. This structure promotes positive seating between the swivel element 20 and the fish's lower jaw that spreads the applied closing force over a wide area.

Wang does not teach or suggest Applicant's lower jaw and swivel element structure set out in Claim 14. The upper surface of the second jaw member [211] of Wang is linear or straight, not divided into different parts that are elevationally offset. Additionally, the bottom surface of the top wall of the Wang engaging member [31] is not divided into outer and inner parts by an offset.

With respect to Robie, its movable component [30a] and prongs [30c] do not include offsets prepared to interlock. Additionally, channel [30e] is sized and shaped to limit rotation of the Robie movable component [30a].

Applicant respectfully submits that the structure described in Claim 14 is not taught or suggested by either reference. Not only is Applicant's lower jaw and swivel element structure different, Applicant's lower jaw and swivel element structure functions differently to produce a different result.

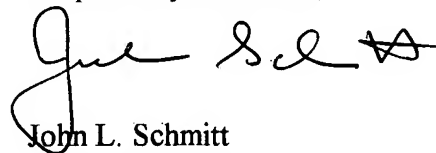
## **V. COMMERCIAL SUCCESS:**

Applicant is marketing his inventive gripper under the trademark **GRAB-ER JAW**. Consumer reaction since introduction of the gripper early in year 2004 has been positive, but initial sales were slowed by limited distribution. For the year 2005 fishing season newly committed channels of distribution should provide increased sales. At a most recent sportsman's show in Green Bay, Wisconsin, Applicant sold 180 grippers. Applicant's website is [www.graberjaw.com](http://www.graberjaw.com).

## **I. SUMMARY:**

In view of Applicant's positive response to Examiner's claim objections and detailed explanation of the distinguishing nature of Applicant's structure described in new Claims 13 and 14, Applicant believes that this application is in condition for allowance. Notice of such is earnestly solicited.

Respectfully submitted,



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